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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,569	01/25/2002	Randall R. Wandmacher	33836000003	8921

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VEDDER PRICE/ACCENTURE  
222 NORTH LASALLE STREET  
CHICAGO, IL 60601

EXAMINER
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GREENE, DANIEL L

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant(s)

10/056,569

Applicant(s)

WANDMACHER ET AL.

Examiner

Daniel L. Greene

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 8/11/03 have been fully considered but they are not persuasive. In the First Office Action, the Examiner stated, "Aycock '138 discloses the claimed invention except for providing the certification program on a fee basis. However, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to provide a certification program for a fee since it is known in the art that companies like ISO-Online, Perry Johnson, Inc. and Dun & Bradstreet charge fees for the certification of a company. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the certification program of Aycock '138 with the certification for a fee of ISO-Online, etc, in order to limit the type of entities that are requesting the certification. " The M.P.E.P. section 2144.03 states, "... applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well-known statement was made. This is necessary because the examiner must be given the opportunity to provide evidence in the next Office action or explain why no evidence is required. If the examiner adds a reference to the rejection in the next action after applicant's rebuttal, the newly cited reference, if it is added merely as evidence of the prior well known statement, potentially be made finale. If no amendments are made to the claims, the examiner must not rely on any other teachings in the reference if the rejection is made finale.

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The examiner presented ISO-Online as an example of a certification program for a fee. It is obvious in a certification program there must be material that is to be mastered by the student/company personal and one or more tests/validations used to gauge the proficiency/compliance of ...students/employees as they take the course. The examiner presents two more documents that support the obviousness of a certification program with a curriculum, ISO 9000-2000 and Online Learning at Florida State University.

The Applicant's Response did not amend any of the claims and only challenged that Aycock did not show or suggest a curriculum delivered via a communication network for a fee. The Examiner addressed that challenge via the Official Notice in the original Office action and in the preceding paragraphs.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. U.S. Patent 5,765,138 [Aycock '138].

As per claims 1, 9 and 29:

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Aycock '138 discloses:

providing a vendor certification program comprising a curriculum via the communication network. Col. 5, lines 65-67, Col. 6, lines 1-15.

Aycock '138 discloses the claimed invention except for providing the certification program on a fee basis. However, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to provide a certification program for a fee since it is known in the art that companies like ISO-Online, Perry Johnson, Inc. and Dun & Bradstreet charge fees for the certification of a company. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the certification program of Aycock '138 with the certification for a fee of ISO-Online, etc, in order to limit the type of entities that are requesting the certification.

receiving a notification that a vendor has successfully completed the vendor certification program; Col. 6, lines 5-10.

granting certified vendor status upon the vendor indicated in the notification, wherein the certified vendor status confers preferential consideration to the vendor during acquisition decisions by the entity. Col. 7-8, lines 1-67.

As per claims 2, 10 and 18:

Aycock '138 further discloses:

A computer-readable medium having stored thereon computer-executable instructions for implementing the method of claim 1. Col. 12, lines 1-67.

As per claims 3, 11 ,17 , 23 and 30.

Aycock '138 further discloses:

wherein the curriculum is based on subject matter expertise possessed by the entity. Col. 5, lines 1-67.

As per claim 4.

Aycock '138 further discloses:

undertaking an acquisition decision; Col. 5, lines 12-18.

accessing information regarding a plurality of vendors, the plurality of vendors comprising at least one vendor having certified vendor status; Col. Col. 36-45.

providing preferential consideration to the at least one vendor having certified vendor status when resolving the acquisition decision. Col. 7, lines 46-67.

As per claims 5 and 12.

Aycock '138 discloses the claimed invention, as discussed above, except for the step of wherein the vendor comprises a plurality of personnel, and wherein granting of the certified vendor status further comprises granting variable levels of certified vendor status such that increasing numbers of the plurality of personnel that have successfully completed the vendor certification program confers increasing levels of preferential consideration. However, Aycock '138 does teach about the maturity level of the supplier and their ability to provide the quality and service level above a minimum standard. Col. 5-7, lines 1-67.

It would have been an obvious matter of design choice to modify the teachings of Aycock '138, to provide the step of wherein the vendor comprises a plurality of personnel, and wherein granting of the certified vendor status further comprises granting variable levels of certified vendor status such that increasing numbers of the plurality of personnel that have successfully completed the vendor certification program confers increasing levels of preferential consideration. Since the applicant has not disclosed that wherein the vendor comprises a plurality of personnel, and wherein granting of the certified vendor status further comprises granting variable levels of certified vendor status such that increasing numbers of the plurality of personnel that have successfully completed the vendor certification program confers increasing levels of preferential consideration solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Aycock '138 will perform the invention as claimed by the applicant with any means, method, or product to wherein the vendor comprises a plurality of personnel, and wherein granting of the certified vendor status further comprises granting variable levels of certified vendor status such that increasing numbers of the plurality of personnel that have successfully completed the vendor certification program confers increasing levels of preferential consideration.

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As per claims 6, 13, 26, 19 and 21.

Aycock '138 further discloses:

providing the vendor certification program, at least in part, via a public communication network. Col. 10, lines17-67.

As per claims 7, 14,20, 27, and 32.

Aycock '138 further discloses:

providing the vendor certification program, at least in part, via either of an Internet or World Wide Web communication network. Col. 10, lines17-67.

As per claims 8, 15, 21, 28 and 33.

Aycock '138 further discloses:

providing the vendor certification program, at least in part, via a private communication network. Col. 10, lines17-67.

As per claim 16 and 29.

Aycock '138 discloses:

a network interface for communicating with the communication network; Col. 10, lines 17-67.

at least one processor coupled to the network interface; Col. 10, lines17-67.



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at least one memory device, coupled to the at least one processor, having stored thereon executable instructions that, when executed by the at least one processor, Col. 10, lines 17-67.

provide a vendor certification program comprising a curriculum via the network interface. Col. 5, lines 65-67, Col. 6, lines 1-15.

Aycock '138 discloses the claimed invention except for providing the certification program on a fee basis. However, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to provide a certification program for a fee since it is known in the art that companies like ISO-Online, Perry Johnson, Inc. and Dun & Bradstreet charge fees for the certification of a company. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the certification program of Aycock '138 with the certification for a fee of ISO-Online, etc, in order to limit the type of entities that are requesting the certification.

receive a notification that a vendor has successfully completed the vendor certification program; Col. 6, lines 5-10.

granting certified vendor status upon the vendor indicated in the notification, wherein the certified vendor status confers preferential consideration to the vendor during acquisition decisions by the entity. Col. 7-8, lines 1-67.

As per claim 22.

Aycock '138 discloses:

a learning management component, operatively coupled to the communication network, that administers a vendor certification program on behalf of an entity; and at least one database, coupled to the learning management component, comprising a curriculum offered as part of the vendor certification program, and comprising information indicating that a vendor- has certified vendor status after successfully completing the curriculum thereby entitling the vendor to preferential consideration during acquisition decisions by the entity. Col. 2-4, lines 1-67.

As per claim 24.

Aycock '138 further discloses:

a delivery component, coupled to learning management component, for delivering the curriculum to the vendor. Fig. 2, 72.

As per claim 25.

Aycock '138 discloses the claimed invention, as discussed above, except for the step of a financial transaction component, coupled to the learning management component that handles payment by the vendors for participation in the vendor certification program. However, as previously established, fees for certification is well known in the art and it would be inherent within a system that is charging a fee, to have

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a financial transaction component, that handles payment by the vendors for participation in the vendor certification program.

It would have been an obvious matter of design choice to modify the teachings of Aycock '138, to provide the step of a financial transaction component, coupled to the learning management component that handles payment by the vendors for participation in the vendor certification program.

Since the applicant has not disclosed that a financial transaction component, coupled to the learning management component that handles payment by the vendors for participation in the vendor certification program solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Aycock '138 will perform the invention as claimed by the applicant with any means, method, or product to a financial transaction component, coupled to the learning management component that handles payment by the vendors for participation in the vendor certification program.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part

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of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Conclusion***

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

9/4/03  
DLG



JAMES P. TRAMMELL  
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